

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless, U-3060, U-4135 and U-4314, and related entities (collectively "Cingular") to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an Early Termination Fee and other penalties from consumers.

Investigation 02-06-003
(Filed June 6, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING MOTIONS TO FILE
AMICUS CURIAE BRIEFS AND AUTHORIZING A RESPONSE TO THEM**

On December 4, 2003, the Wireless Consumers Alliance (WCA) filed a motion for leave to file a brief, as amicus curiae, and on December 5, the Utility Reform Network (TURN) and Consumers Union (CU) jointly filed a motion requesting the same authority. WCA and TURN/CU each submitted a copy of its brief with its motion.

Neither WCA nor TURN/CU seeks to become a party to this proceeding or to intervene in any way. Though there is no statutory right to file a brief, as amicus curiae, the Commission has discretion to authorize such filings under Rule 87 of the Commission's Rules of Practice and Procedure (Rules). Previously, by ruling on October 31, I authorized the filing of amicus briefs by the Cellular Carriers Association of California, et al. (CCAC) and by a group of energy and telephone utilities (the Joint Utilities).

On December 18, Cingular Wireless (Cingular) filed a response that argues the WCA and TURN/CU amicus briefs are untimely and should not be filed, and, in the alternative, requests 15 days to file a reply to them. By e-mail to the parties on December 19, I advised that I intended to authorize the filing of the briefs and to allow Cingular to file a reply brief by January 5, 2004. In response to other e-mail that day, I also authorized the Commission's Consumer Protection and Safety Division (CPSD) and Utility Consumers' Action Network (UCAN) to file reply briefs. Since the amicus briefs are relatively short (10 pages and 13 pages, respectively) and, since like the other amicus briefs filed in this proceeding, they are limited to legal and policy matters that raise little that is new, any reply brief shall be no more than 15 pages.

Neither WCA nor TURN/CU explain why they did not seek leave, earlier, to file their briefs. The presiding officer's opinion was mailed on September 9, 2003 and appeals were due 30 days thereafter. However, considering the oral argument was delayed until December 8, and that the WCA and TURN/CU motions were filed before that argument occurred, the late filing has not interfered with the orderly and timely adjudication of this investigation. Any prejudice to Cingular, CPSD or UCAN is cured by allowing a reply brief.

IT IS RULED that:

1. The December 4, 2003 motion of the Wireless Consumers Alliance for leave to file a brief, as amicus curiae, is granted.
2. The December 5, 2003 joint motion of the Utility Reform Network (TURN) and Consumers Union (CU) for leave to file a brief, as amicus curiae, is granted.
3. Cingular Wireless, the Commission's Consumer Protection and Safety Division, and Utility Consumers' Action Network may each file a reply to these

briefs. The reply shall be limited to no more than 15 pages and shall be filed by January 5, 2004.

4. The Commission's Process Office will add the Cellular Carriers Association of California, et al., TURN and CU to the "Information Only" category on the service list for this proceeding.

Dated December 30, 2003, at San Francisco, California.

JEAN VIETH

Jean Vieth
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motions to File Amicus Curiae Briefs and Authorizing a Response to them on all parties of record in this proceeding or their attorneys of record.

Dated December 30, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN
Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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